App. F. IX-4

193

File No. 32-31

Previous References

Legi)

Serial Nos

Enclosures to Legs A file no.

Later References Legs 32-31-1-4

General and Revenue Secretariat.

Serial Nos.

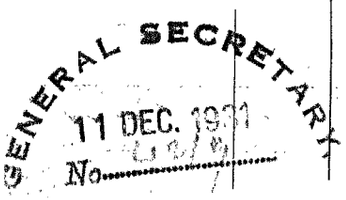
Part B for

SUBJECT.

These Papers & reference connected with the Imp. Irrigation Regulation 1932

(Regulation No I of 1932)

Serial No.

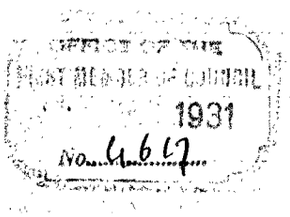


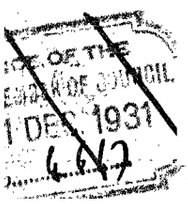
These amendments are some of the points suggested by one or two members of the Select Committee but were rejected by the Select Committee. They may be opposed.

Secretary

First Member

le
11/12/31
Hm
11/12





NOTE—Contn. Sheet.

Serial No.

Irrigation Bill amendments:—

Chapter V awards Compensation
The procedure in fixing & the authority fixing the Compensation are prescribed in that chapter itself.
It may be that a party who is dissatisfied with the Compensation fixed by the D.C. takes the matter before a civil Court to assess the Compensation under this Act. It seems to be therefore safer to bar civil Suits in respect of matters coming under chapt V

If permitted an amendment will be instated by inserting the words "chapter V" between the words "provisions of" and "chapter VI" in clause 55.

The print order for the amendments in Stile waiting & I can insert this also.

1st Member)

12/12/31

ku
12/12/31

NOTE—Contn. Sheet.

WD 70—GBPM—60,000—13-8-31.

16 Copies — O.M.

On a careful examination of the Imitation Bill, as ~~drafted~~ amended by the Select Committee, several ~~small~~ amendments are found necessary, as indicated in the accompanying memo. It is proposed to move these amendments when the report of the Select Committee is taken into consideration. Such other and further amendments are found necessary, except verbal, to supply omissions.

~~The Chairman of the Select Committee~~ ~~has kindly~~ ~~agreed to the~~ ~~amendments~~ ~~in~~ such ~~app~~.

My Chairman of the S. C. would much appreciate it if the members of the Committee will

any remarks you have to make upon these proposed amendments to the Bill to ~~the~~ members of the S.C. will be much appreciated.

Yrs

Secy.-

H. E. typed sheets (3).

1 as amended by the Select Committee

any suggestions or remarks from the members?

General and Revenue Secretariat,

Bangalore, dated 9th December 1931.

Official Memorandum.

On a careful examination of the Irrigation Bill as amended by the Select Committee, a few draft amendments are found necessary as indicated in the accompanying memo. It is proposed to move these amendments in the report of the Select Committee is taken into consideration. It will be seen that all the amendments are purely verbal, except number 7 which seeks to supply an omission.

Any remarks are suggestions with reference to these proposed amendments from the Members of the Select Committee will be much appreciated.

By Order,

Secretary,
Irrigation Bill Select Committee.

Amendments suggested in the Bill as amended by the Select Committee.

1. In section 2, line 6, insert the word "Irrigation" between the words "class of" and "works". ~~(This makes the sense clearer.)~~

2. In section 3, sub-clause 10, omit the words "when he is" in the 3rd line.
(This is merely a verbal alteration)

3. In section 8, clause 2, explanation, omit the words "for the construction, extension, improvement or alteration of a water course under this section, though executed solely at the expense

of

of a private person," and the words "to which the provisions of the said Regulation shall apply" and add the words "under sub section 2" after the words "the acquisition of any land".

The clause then will read as follows:-

Explanation:- Notwithstanding anything contained in the proviso to section 6 (1) of the Land Acquisition Regulation, 1894, the acquisition of any land under sub section (2) shall be deemed to be for a public purpose.

4. In section 9, line 2, substitute the word "shall" for "may".

5. In section 11, clause (1), line 3, between the words "by" and "section 10", insert the words "sub clause (a)".
(This alteration is suggested since there is no provision in section 11 for the enforcement of obligations under sub clause (b) of section 10.)

6. In section 12, para 2, omit the words "dispose of the application after a summary enquiry in the manner prescribed in the Mysore Land Revenue Code, 1888" and substitute the words " "thereupon proceed to make a summary enquiry into the matter in the manner prescribed in the Mysore Land Revenue Code, 1888, and pass his decision thereon."
(This is merely a verbal alteration).

7. In para 3 of the said section, add the words "within 30 days from the date of the service of the said decision" between the words "shall lie" and "to the Deputy Commissioner".
(This alteration is necessary since there has been an omission to fix a period of limitation for an appeal to the Deputy Commissioner as has been provided in regard to appeals in other cases under this Regulation.)

8. In section 15, omit the word "and" occurring at the end of Sub clause (c).

(This change is necessary in order to make it clear that the several conditions are alternative and not cumulative.)

9. In section 18, sub clause (a), omit the word "the" before the word "stoppage" in line 1.

10. In section 19, add the words "under this Regulation" after the words "for compensation".

11. In section 35, clause 2, for the word "on" after the word "levied", substitute "from".

12. In section 39, insert the words"a sum equivalent to" before the words "the value of the labour".

13. In section 46, clause 7, substitute the word "required" for "desired".

14. In section 52, instead of para 2, substitute the following:-

Serial No.

Amendments suggested in the Bill as amended by the Select Committee.

In section 2, line 6, insert the word " irrigatio between the words "class of" and "works". (This makes the sense clearer.)

2 In section 3, sub-clause 10, omit the words "when he is" in the 3 line. (This is merely a verbal alteration.)

3 In section 8, clause 2, explanation, omit the words "for the construction, extension, improvement o alteration of a water course under this section, thou executed solely at the expense of a private person," and the words "to which the provisions of the said Regulation shall apply" and add the words " under sub section 2" after the words "the acquisition of an land".

The clause then will read as follows:-

Explanation:- Notwithstanding anything contain in the proviso to section 6(1) of the Land Acquisitio Regulation, 1894, the acquisition of any land under sub section(2)shall be deemed to be for a public purpose.

4 In section 9, line 2, substitute the word "shall" for "may".

5 In section, 11, clause (1), line 3, between the words "by" and "section 10", insert the words"sub clause (a)". (This alteration is suggested sinc

NOTE—Contn. Sheet.

WD 02653-GPB—50,000—8 7 30

there is no provision in section 11 for the enforcement of obligations under sub clause (b) of section 10.)

6. In section 12, para 2, omit the words "dispose of the application after a summary enquiry in the manner prescribed in the Mysore Land Revenue Code, 1888" and ~~insert~~ substitute the words " thereupon proceed to make a summary enquiry into the matter in the manner prescribed in the Mysore Land Revenue Code, 1888, and pass his decision thereon." (This is merely a verbal alteration.)

7. In para 3 of the said section, add the words "within 30 days from the date of the service of the said decision" between the words " shall lie" and " to the Deputy Commissioner". (This alteration is necessary since there has been an ommssion to fix a period of limitation for an appeal to the Deputy Commissioner as has been provided in regard to appeals in other cases under this Regulation.)

In section 15. omit the words" and" occurring at the end of of Sub clause (c). (This change is necessary in order to make it clear that the several conditions are alternative and not cumulative.)

9. In section 18, sub clause(c), omit the word "the" before the word "stoppage" in line 1.

10. In section 19, add the words "under this Regulation" after the words "for compensation".

11. In section 35, clause 2, for the word "on" after the words "levied", substitute " from".

12. In section 39, insert the words " a sum equivalent to"

Serial No.

before the words "the value of the labour".

/3 In section 46. clause 7, substitute the word "required" for " desired".

/4 In section 52. instead of para 2, substitute the following:-

"When on examining the records of any case the Government or the Revenue Commissioner considers that the order or decision of such officer should be revised it or he may reverse or alter such order or decision or pass such other order as it or he may think fit. The Government alone shall be competent to revise under this section any decision or order which is declared by this Regulation to be final." This ~~xxxx~~ verbal amendment appears to be necessary as in para 2, as it stands, it causes a doubt as ~~to~~ the words " in cases in which etc " qualify both the Government and the Revenue Commissioner, the intention being that it ought to qualify only the Revenue Commissioner.)

Draft of the amendments above is put up
First Member)

CE
8/12/37

This may in the 1st instance be sent to Financial Commr for the meeting of the Select Committee in regard to Para below

KG
9/12/37

NOTE—Contn. Sheet.

WD 02558—GPB—50,000—8.7.30

Two copies of same are filed.

Done
9/12

THE MYSORE LEGISLATIVE COUNCIL.

December Session - 1931.

Statement of Business to be transacted at the Legislative Council (Contd)

14. The MYSORE IRRIGATION BILL:

Amendments;

1. In section 2, line 6, insert the word "Irrigation" between the words "class of" and "works".

2. In section 3, sub-clause (10), omit the words "when he is" in the 3rd line.

3. In section 8, clause 2, Explanation, omit the words "for the construction, extension, improvement or alteration of a water course under this section, though executed solely at the expense of a private person" and the words "to which the provisions of the said Regulation shall apply" and add the words "under sub section (2)" after the words "the acquisition of any land".

The clause then will read as follows:

Explanation: Notwithstanding anything contained in the proviso to section 6(i) of the Land Acquisition Regulation, 1894, the acquisition of any land under sub section (2) shall be deemed to be for a public purpose.

4. In section 9, line 2, substitute the word "Shall" for "may".

5. In section 11, clause (i) line 3, between the words & "by" and "section 10". insert the words "sub clause (a)"

6. In section 12, para 2, omit the words "dispose of the application after a summary enquiry in the manner prescribed in the Mysore Land Revenue Code, 1888" and substitute the words "thereupon proceed to make a summary enquiry into the matter in the manner prescribed in the Mysore

Land Revenue Code, ~~1999~~ 1888, and pass his decision thereon".

7. In para 3 of the said section, add the words "within ~~30~~ Thirty days from the date of the service of the said decision" between the words "shall lie" and "to the Deputy Commissioner".

8. In section 15, omit the word "and" occurring at the end of sub clause (c).

Mover: Rajamantrapravina K. MATTHAN:

Seconder: Mr. B.T. KESAVA IYENGAR.

9. Add at the end of the first part of sub clause (2) clause 16, Chapter IV "when semi-dry crops are cultivated and shall be liable to pay only dry assessment when only dry crops are cultivated".

Mover:- Mr. K. Changalaraya Reddy.

10. In section 18, sub clause (c) omit the word "the" before the word "stoppage" in line 1.

11. In section 19, ~~sub~~ add the words "under this Regulation" after the words "for compensation".

Mover: Rajamantr pravina K. MATTHAN

Seconder: Mr. B.T. KESAVA IYENGAR

12. Add at the end of the explanation to clause 25, Chapter VI " Over and above ~~its~~ its original capacity"

Mover: Mr. K. Changalaraya Reddy.

13. Add the following proviso to sub-section (3) of Section 29 of the Bill:--

9 —"Provided that when any such revision results in an increase of water rate, such increase should not exceed 25 per cent of the rate prevailing at the time of revision.

Movers: Messrs. H.C. DASAPPA & MOHAMED SAIM

14. In the last part of ~~the~~ sub clause (3) of clause 29,

Chapter VI, delete the words "ten" between "expiry of a period of" and "years" and "fifteen" between "not less than" and "years" and substitute instead the words "fifteen" and "thirty" respectively.

Mover: Mr. K. CHENGALARAYA REDDY:

15. In Section 35, clause (2), for the word "on" after the word "levied" substitute "from".

16. In Section 39, insert the words "a sum equivalent to" before the words "the value of the labour".

17. In section 46, clause (vii), substitute the word "required" for "desired"

18. In section 52, instead of para 2, substitute the following:

"When on examining the records of any case, the Government or the Revenue Commissioner considers that the order or decision of such officer should be revised, it or he may reverse or alter such order or decision or pass such other order as it or he may think fit. The Government alone shall be competent to revise under this section any decision or order which is declared by this Regulation to be final".

over: Rajamantrapravina K.MATTHAN:

Seconder: Mr. B.T. KESHAVA IYENGAR;

Copy to Govt.

11/12/31

11/12

Nos 9, 12 & 14 are new. They go far beyond the provisions decided by the Select Committee and are open for orders.

11.12.31

THE MYSORE IRRIGATION BILL.

Sir,

I beg to move that the MYSORE IRRIGATION BILL be passed.

The House will remember that the last time the Council met, the Select Committee's report on the Bill was presented and adopted. The Bill as amended by the Select Committee was taken into consideration and adopted and certain other amendments more or less of a verbal character were made by the Council. Now we have come to the final stage of the Bill which is of vital importance to the ryots of the State and it only remains for the House to pass the Bill as amended, finally.

Ce
17/4/34

II. THE MYSORE IRRIGATION BILL.

S i r,

I beg to move that the MYSORE IRRIGATION BILL be passed.

The House will remember that the last time the Council met, the Select Committee's report on the Bill was presented and adopted. The Bill as amended by the Select Committee was taken into consideration and adopted and certain other amendments more or less of a verbal character were made by the Council. We have now come to the final stage of this Bill and it only remains for the House to pass the Bill, as amended, finally.

Hon'ble members will doubtless recollect that proposals for legislation relating to irrigation were initiated in 1913 and have been under discussion ever since. The Bill in its present form has received practically unanimous support from all sections of the House and the Council may well congratulate itself on having placed this very important piece of legis lation on the statute book.

Sir, I move that the Bill be passed.

Dated 5th December 1931

Dear Mr. Matthan,

I am in receipt of your letter of the 20th ultimo, and the copy of the Mysore Irrigation Bill as revised by the Select Committee with their Report thereon.

I have carefully gone through the provisions of the Bill. The policy of Government being definitely settled, the criticisms and suggestions that you invite from me are, I believe, confined only to the legislative clothing. I do not know if much useful purpose will be served by any suggestions made at this stage, but still as you have called for an expression of my views, I give below a few suggestion in the hope that you will find them useful.

Preamble: The provisions of the Bill offer little difficulty in construing them and the preamble need not therefore be so very explanatory. I would condense and recast it thus :

"Whereas it is desirable to make better provision for the construction, maintenance, control, and regulation of irrigation works, and for the supply of water therefrom: It is hereby enacted as follows:-"

Chapter I: Section 2, line 6:

Insert the word "irrigation" between the words "of" and "works".

Section 3,(1) (c):

Omit the words "and drainage works" as in the opinion of the Select Committee drainage works are included in the definition of "irrigation work" and all references to drainage works in the body of the Bill have in consequence been omitted.

Chapter I: Section 3, Sub cl: (2):

I would substitute the following definition for "new irrigation work":

New irrigation work means "any irrigation work constructed, completed, or extended after this Regulation comes into force".

"Irrigation work" is already defined in sub-clause (1) and may therefore take the place of "any work of irrigation as defined in clause (1)".

By the addition of the words "or extended" after the word "completed", the definition of the "new irrigation work" will become more concise.

Section 3, Sub cl: (4):

The definition of "drainage work" is, I think, unnecessary as all references to "drainage work" in the body of the Bill have been omitted by the Select Committee.

Section 3, Sub cl: (10):

The words "when he is" may be omitted.

Chapter III: Section 8, clause (1), line 3:

After the words "irrigation officer" add "duly empowered to receive such application".

After the word "may" add "thereupon either reject the application or".

line 5: Omit the word "either".

Chapter III: Section 8, clause (1):

line 8: After the words "Government agency" add "and in either case".

line 9: Omit the words "and conditions". Substitute the word "to" in the place of "regards".

line 10: Omit the rest of the clause beginning with the word "facilities" and substitute "and on such conditions as are, in his opinion, necessary to be imposed to safeguard other interests or lands the owners of which may be affected thereby".

Section 8, cl: (2) Explanation:

lines 3 to 6: Omit the words "for the construction * * * * private person" and substitute "under Sub-section (2)". Omit the words "to which the provisions of the said Regulation shall apply".

Section 9, line 2:

Substitute the word "shall" for "may".

Section 11, clause (1):

line 3 : Insert the words "cl: (a)" before the words "Section 10" as there is no provision in Section 11 for the enforcement of the ~~xxxxxx~~ obligations under clause (b) of Section 10.

Section 12, line 4:

Omit the word "joint" as the definition of "owner" includes every person having an interest in the ownership, and the word "joint" has been dropped out by the Select

Committee in that definition.

Chapter III: Section 12, line 9:

I would add the words "duly empowered in this behalf" after the words "irrigation officer".

Omit para beginning with the words "such officer, etc. etc." and substitute "such officer shall thereupon proceed to make a summary enquiry into the matter in the manner prescribed in the Mysore Land Revenue Code 1888, and pass his decision thereon".

Last para : No period of limitation is fixed for an appeal to the Deputy Commissioner.

Chapter IV: Section 14, Sub Section (1), line 1:

Omit the word "the" and substitute "to have a".

line 3: Omit the words "to that effect".

The reference in this Sub-section to Sub-section (1) is not very clear. Sub-section (1) does not fix any rates. The rates are to be provided by rules to be framed by Government.

Sub-section (1), as it is, does not appear to be in any way inconsistent with Sub-section (2). Hence the words "notwithstanding anything contained in Sub-section (1)" in this Sub-section seem to be out of place.

Section 15:

Omit the word "and" occurring at the end of sub-clause (3).

Chapter V: Section 18, clause (c):

Omit the word "the" before the word "stoppage" in line 1.

Section 19:

After the words "for compensation" add the words "under this Chapter".

Chapter VII:Section 31, clause (1), para 2, line 3:

Omit the words "Or drainage" occurring between the words "irrigation" and "is".

Chapter VIII: Section 35, clause (2):

For the word "on" occurring after the word "levied" substitute "from".

Section 39:

Insert "a sum equivalent to" before the words "the value of the labour".

Chapter X: Clause (vii):

For the word "desired" substitute "required".

Section 52:

For para 2 I would substitute the following :--

"When on examining the records of any case the Government or Revenue Commissioner considers that the order or decision of such officer, except in cases where the decision or order is declared to be final should be revised, it or he may reverse or alter such order or decision or pass such other order as it or he may think fit".

Chapter XI: Section 55:

There are other decisions or orders outside Chapters VI, VII and VIII, which are declared to be final; say, for example, Sections 8, 16, 23 and 45. I suppose it is not the intention that such orders declared to be final are liable to be set aside by civil courts. If the intention is to oust the jurisdiction of civil courts in such cases, it is not clearly brought out in the Regulation.

I sent herewith a copy of the proposed Bill with my suggestions noted therein.

Yours Sincerely

K Doraiswamy Iyer

Rajamantrapravina

K. M a t t h a n, Esq., B.A.,

Member of Council,

B A N G A L O R E.

Serial No.

Preamble words seem to be necessary. Bombay has a water rate

Sec 2 may be adopted.

Sec 3 'drainage work necessary and an account of this mischief definition further reference was omitted

Sec (3) (2) New Irrigation Work may be adopted: It is not the old portion but new portion or extension.

Sec (3) (4) 'drainage work' necessary.

Sec 8 "duly empowered to receive such application". Is this necessary

Sec 12 line 4 'join' seems to be necessary here to show that it is water advisements that are referred

Sec 12 line 9. duly empowered in this behalf does not seem to be necessary

Sec 12 Para 3. "an appeal shall lie within 30 days from the date of the decision of the said decision" to the D.C.

NOTE – Contn. Sheet

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Sec 14. (2) The words 'on such terms' in Sub cl (1) include rates also. In regard to the rates for works in sub clause (2), Sub clause (1) should not apply. (2) is really an exception (1).

Sec 31 (1) or drainage necessary

Sec 52. The idea is that Govt should have power of revision in all cases while Rs. will exercise it only in cases where the decision is not declared to be final.

When examining the merits of any case the Govt or R.C. considers that the order or decision of such officer should be revised, it or he may reverse or alter such order or decision (or proceedings) or pass such other order as it or he may think fit.

The Govt alone shall be competent under this Section to revise any decision or order which is declared to be final in this Legislation

As it stands it is not to the advantage even that Govt can revise only in cases where it is not final (The C.J. has taken it in that sense)

Sec 8: It is not clear how a dispute can arise
the applicant will enter into a contract
with the inspecting officer. If applicant
does not conform to them, he will
not be allowed to take a water course.

In order to clear doubt, there must be possibility of
civil claim or right

Sec 16: So far as the acts of the officer is concerned
no suit can lie, because the statute empowers
him. The private party is also subject to this
He can claim only such compensation
the statute gives him if any.

Sec 23. Compensation for acts done in
exercise of the powers conferred by this Reg.
When a statutory power is exercised in
not a wrong & there can be no compensation
only the statutory compensation can be given
Consequently a suit cannot lie for any
legal claim

Sec 45. If a pleader conducting the suit is
dissatisfied how can he file a civil
suit in the dismissal of the pleader

If necessary, war of words against Magistrate
may be made. S. 7 that is the Criminal law
Code (Sec 223 L. R. Code)